

superior to the children's programming record credited in Fox Television, Inc., 8 FCC Rcd 2361, 2377 (Rev. Bd. 1993). Accordingly, WHFT's record of broadcasting a large amount of children's programming, at times when children are in the audience, designed specifically to meet their developmental as well as informational and educational needs, warrants a much stronger credit than suggested in the conclusions of the Mass Media Bureau.

362. Similarly, we must take issue with the Bureau's conclusions with respect to community outreach efforts. The Bureau acknowledges that thousands of people were fed and clothed by WHFT, and that hundreds received emergency help from the Prayer Line. (MMB PFCL ¶318.) But the Bureau does not credit the number of people who received help because of referrals to an agency or organization as a result of a call to the Prayer Line.

363. It is a profound understatement to summarize WHFT's outreach record as "as praiseworthy as the outreach efforts lauded by the Commission in other comparative renewal cases such as Fox Television, Inc., 8 FCC Rcd at 2416-18; Metroplex Communications, Inc., 4 FCC Rcd 8149, 8156 (Rev. Bd. 1989)." (MMB PFCL ¶318.) There is ample record evidence from many public witnesses that WHFT provided important assistance to their organizations and community outreach projects, and that WHFT assisted other community based organizations to realize

their goals, like the stations in Fox and Metroplex. What sets WHFT's record above the record of those stations is the magnitude of the physical effort -- in terms of staff, space, and energy -- devoted to the outreach effort, the direct impact of the outreach efforts on so many viewers, and the dedicated consistency of that effort throughout the License Term. Every day during the License Term a desperate viewer could call the Prayer Line at any hour during the day or night. At any time during the License Term desperate people could appear at WHFT's door and receive food and clothing.

364. The Bureau's own observation that "thousands" were being fed and clothed, and "hundreds" were receiving help through the Prayer Line, accurately quantifies the service performed by WHFT. Indeed, direct aid during the License Term to "hundreds" and "thousands" of residents in the service area is an unprecedented and outstanding performance, clearly far more in terms of magnitude and direct impact on viewers than the outreach efforts praised by the Commission in Fox and Metroplex, supra.

B. Glendale Findings and Conclusions

365. In addressing the comparative issue, Glendale takes facts out of context, omits significant evidence, and advances flawed theories to characterize benign facts as adverse. These

deficiencies materially taint Glendale's proposed findings and conclusions.^{58/}

1. Ascertainment and Ascertainment Methodology

366. Glendale raises red herrings in arguing that WHFT's ascertainment process and methodology were deficient. For example, beginning at Glendale PFCL I ¶435, Glendale compares the ranking of problems ascertained by WHFT on its Quarterly Reports with the rankings of problems based on the licensee's sheets tabulating the number of mentions of those problems from each calendar quarter. Glendale's exhaustive study of this minutiae reveals that in 20 calendar quarters there were minor differences in the ranking of problems in five different quarters. In one of the quarters, a comparison of the problems listed in the Quarterly Report shows that the top five problems are the same, with the order slightly different (fourth quarter of 1987). In the first quarter of 1988, three of the top five problems are accurately included among the top five (alcohol/drugs, crime, discrimination),^{59/} as was the case in each of the remaining quarters where a discrepancy arose (third quarter, 1988; second quarter, 1989; and, first quarter, 1990.

^{58/} SALAD offers no proposed findings or conclusions of its own on the comparative issue, but adopts Glendale's findings and conclusions. (SALAD PFCL ¶¶5, 7.)

^{59/} In fact, in some instances the alleged discrepancy consisted of the Quarterly Report listing a problem, such as drugs and alcohol abuse, as the third most important problem in the quarterly report, but as the second most important problem in the tabulations (see third quarter 1988).

367. Glendale provides no evidence, however, that the problems mentioned on the Quarterly Reports were not, in fact, problems in the community, or "that a single, pressing [problem] was not addressed [or] that any significant subgroup -- whether defined by race, ethnicity, gender or geography -- was purposefully, even negligently, slighted" during the license term. Fox Television Stations, Inc., supra, 8 FCC Rcd at 2384. Nor is there an explanation in the record for the discrepancy, whether it was the result of human error or the licensee's exercise of its good faith discretion in determining what issues of public importance to address during each calendar quarter. As noted in Seattle Public Schools, 4 FCC Rcd 625, 629 (Rev. Bd. 1989), while a licensee must meet the needs of its service area, "how much programming to present concerning which needs is largely within the licensee's reasonable good faith discretion" (quoting WHYY, Inc., 53 FCC 2d 421, 425 (1975)). Accordingly, for all its calculations and lists, Glendale has not made a decisionally significant finding concerning TBF's methodology or ascertainment procedure.

2. WHFT Programming

368. Glendale lists how often WHFT's local programs Feedback and Miami Praise the Lord were listed as responsive to a community problem in the Station's Quarterly Reports, and then attempts to argue, based on the purported paucity of mentions in the Quarterly Reports, that WHFT did not broadcast much issue-

responsive local programming. (Glendale PFCL I ¶¶441, 446.) The legal premise of Glendale's findings are questionable on two counts. First, the Commission has repeatedly stressed that there is "no valid nexus" between quantity of nonentertainment programming and adequate broadcast service.^{60/} Second, there is no Commission requirement that all of WHFT's issue responsive programming be identified and described in the Station's Quarterly Reports. The Commission has long held that the purposes of the Quarterly Reports "is intended to be exemplary in nature...." Deregulation of Commercial Television, 98 FCC 2d 1076, 1108 (1984). Thus, the Reports need only provide examples of a Station's issue responsive programming. There is no requirement that they exhaustively list all issue responsive programming broadcast during a license term.

369. Likewise, Glendale's factual premise is simply erroneous. The record shows that when preparing the Quarterly Reports, the Station staff consulted its continuity for "some, but not all" of the local programs that were issue-responsive. (TBF PFCL ¶461.) Glendale cannot argue that the Quarterly Reports establish the quantity of local issue-responsive programming when the record shows that not all issue-responsive programming was included on the Reports. Moreover, the record establishes that Robin Downing scheduled at least four guests

^{60/} Deregulation of Radio, 84 FCC 2d 968, 986 (1981), aff'd in pertinent part sub nom. Office of Communications of United Church of Christ v. FCC, 707 F2d 1413 (D.C. Cir. 1983), quoted in Fox Television Stations, Inc., supra, 8 FCC Rcd at 2381.

per calendar quarter in TBF's local programs, Feedback and Miami Praise the Lord, to discuss and respond to the top five problems ascertained each quarter, and that all problems mentioned during ascertainment each calendar quarter received some response in WHFT's local programming. (TBF PFCL ¶464.)

370. Equally flawed are similar Glendale assertions that WHFT offered no regular local programming responsive to issues not among the top five ascertained. (Glendale PFCL I ¶472.) As permitted by the Commission, Deregulation of Commercial Television, supra, 98 FCC 2d at 1107-08, TBF's Quarterly Reports generally only listed programming that was responsive to the top five issues ascertained. (TBF PFCL ¶461.) Of course, consistent with its licensee discretion, TBF could have determined not to treat problems falling outside the top five. See, e.g., Seattle Public Schools, supra, 4 FCC Rcd at 629. However, that is not what happened, and Glendale is simply wrong on the facts. TBF's production staff ensured that WHFT local programming responded to every problem that was mentioned during the Station's ascertainment. (TBF PFCL ¶464.)

371. Similarly, Glendale distorts the record in claiming that WHFT programming did not respond to issues ascertained to be "top community issues." (Glendale PFCL I ¶474.) This assertion is erroneous. (TBF PFCL ¶464.) Glendale limits itself to a document, the Quarterly Report, which Glendale is well aware lists only programs responsive to the top five

ascertained problems. (Glendale PFCL I ¶433.) Glendale then refers to TBF's ascertainment tabulations (rather than the Quarterly Reports) for the "top problems" and finds problems listed below the top five, as the tenth most important issue ("homelessness" -- fourth quarter 1987) or seventh most important issue ("growth/population" -- fourth quarter 1988 and first quarter 1989). Knowing that no programming is reported for these problems because they are not among the top five, Glendale argues that these problems in fact were not treated in WHFT's local programming. By the same method, Glendale "finds" that no local programs were broadcast to meet top community needs, ignoring the fact that in preparing the Quarterly Reports TBF did not consult the continuity on all its local programs. (TBF PFCL ¶461.) Glendale's findings are thus twisted to be facially accurate while they are factually erroneous.

372. Glendale acknowledges that WHFT's Quarterly Reports describe the Station's children's programming. However, Glendale criticizes TBF for not providing information about specific episodes, or stating how such programs met the needs of children in the Miami service area. (Glendale PFCL I ¶455.) Those criticisms betray a profound misunderstanding of the role of children's programming in a television licensee's program service, as well as ignorance of the Commission's requirements.

373. To the accusation that evidence of WHFT's children's programming included no evidence concerning specific program

episodes, there are two answers. First, the Commission does not require by policy or rule that a station keep records concerning any particular episode of children's programming broadcast on the Station. Second, no Commission comparative renewal decision requires a licensee to provide evidence of particular episodes of a program to be able to claim credit for that program if the program's general characteristics are established by the evidence. TBF may still be awarded credit for its children's programming based on a general or categorical description of the program.^{61/}

374. Glendale also misapprehends the Commission's requirements in arguing that TBF has provided no evidence that its educational and informational programming met Miami area needs, or even of Miami area children's needs. The first complaint, of course, ignores the fact that "Youth" and/or "Education/Schools" appeared on almost every Quarterly Report prepared during the License Term. Educational and informational programming for children would clearly be responsive to both of these ascertained community needs.

375. TBF's ascertainment included representatives of "organizations of and for youth" (TBF Ex. 33, Tab B and C), and during the License Term WHFT did broadcast programming respon-

^{61/} We note that Glendale successfully objected to the admissibility of testimony from public witnesses that referred to specific episodes of children's programming broadcast during the License Term.

sive to the issue of "Youth/Children." (See TBF Ex., 33, Tab H, pp. 19-20.) A licensee must provide children's programming "to educate and inform -- and not simply to entertain." Children's Television Report and Policy Statement, supra, 50 FCC 2d at 6. The provision of children's programming is a bedrock requirement and is unconnected with any obligation to "ascertain" community needs. Indeed, the Commission and then Congress in the Children's Television Act of 1990 presumptively established the need for such programming and the licensee's obligation to provide such programming:

"Because of their immaturity and special needs, children require programming designed specifically for them. Accordingly, we expect television broadcasters, as trustees of a valuable resource, to develop and present programs which will serve the public interest." Children's Television Report and Policy Statement, supra, 50 FCC 2d at 5. See also 47 U.S.C. §303a.

376. Likewise, and contrary to Glendale's arguments, there are no Commission requirements that a licensee do any "ascertainment" of children's needs as part of its program service. The need is presumptive and established by policy and statute.

377. Finally, even Glendale's extremely abbreviated descriptions of some of WHFT's children's programs reflect that those programs met educational and informational needs of Miami's children. In one program cited by Glendale, singing, skits, and puppetry were used to teach a lesson of the day. (Glendale PFCL I ¶456.) In another, an episode of Davey and Goliath taught the lesson not to look down on people who do not

speaking your language. (Id. ¶459.) In a third, a standard segment in The Gospel Bill Show taught children about animals. (Id. ¶461.) Of course, the record of responsive children's programming is far more extensive than Glendale's findings reflect. (See ¶¶342-43; TBF PFCL ¶¶483-84, 486-87, 489-93, 495, 497.)

378. Glendale argues that a large number of network programs broadcast on WHFT were not responsive to local Miami needs. (Id. ¶488.) However, those contentions are hypertechnical and require the Commission to sit in judgment of a licensee's good faith determination concerning what sort of programming is responsive to local community needs. This is contrary to Commission policy, which respects the "reasonable good faith discretion in selecting issues to be covered and appropriate programming responsive to those issues." Deregulation of Commercial Television, supra, 98 FCC 2d at 1092.

379. In the first instance, Glendale's definition of what constitutes a program "responsive" to a local need is suspect, to say the least. Glendale argues that no credit should be given for a program as responsive to a local need unless the program includes "examples or information specific to the Miami area." (Glendale PFCL I ¶448.) Glendale, of course, cites no authority for this remarkable statement, because there is none. According to Glendale's definition, for example, no program about the ravages of drug addiction or chemical dependency could

be responsive to a local need unless it mentioned Miami or a program in Miami. By the same token, the Feedback program in which Officers Roper and Morton participated, which described the Crimestoppers program and how it helped stop crime in local neighborhoods and communities (TBF PFCL ¶543), would not be responsive to a local issue of crime unless one of the officers happened to mention a Crimestoppers number in the viewer's community. Clearly that is absurd.

380. The result is also absurd when applied to the specific programming which Glendale claims is not responsive to a "Miami" need. For example, clearly a program on transportation and ride-sharing in Orange County, California, and its impact on the oil crisis will provide information on how ride-sharing programs work in other areas, like Miami. (Joy, 1/11/91, TBF Ex. 33, Tab HH, pp. 80-81.) A program on a Phoenix church's ministries to the poor and homeless which describes what that church has done and the problems it has faced over nine years provides information on the problem to Miamians who are serving the poor. (Praise the Lord, 1/23/89, TBF Ex. 33, Tab H, p. 186.) An interview with the chaplain of the Orange County Jail may provide insight on the number of women incarcerated who are involved in drug abuse and how they may be rehabilitated, issues clearly of concern in Miami. (Joy, 12/9/87, TBF Ex. 33, Tab H, p. 78.)

381. A review of these network programs, and others which Glendale claims are "not responsive" to local needs, shows at a minimum that TBF has made a good faith and reasonable judgment in determining that these cited network programs are responsive to Miami local needs. That discretion is traditionally extremely broad. Deregulation of Commercial Television, supra, 98 FCC 2d at 1092-93. "How a broadcast licensee responds to what may be conflicting and competing needs of regional or minority groups remains largely within its discretion." Fox Television Stations, Inc., supra, 8 FCC Rcd at 2384, quoting Stone v. FCC, 466 F.2d 316, 328 (D.C. Cir. 1972). Or as the Supreme Court stated in rejecting a quantitative approach to comparative renewals, "it seems clear that Congress intended private broadcasting to develop with the widest journalistic freedom consistent with the public interest obligations." Columbia Broadcasting System, Inc. v. FCC, 412 U.S. 94, 110 (1973). TBF did not abuse its discretion.

382. Glendale makes a similar argument with respect to programming it claims is not responsive to the issues of "crime" (Glendale PFCL I ¶¶490-91) and "education/schools" (Id. ¶¶492-93). Once again, a review of the programs cited by Glendale shows that TBF was reasonably exercising its licensee discretion in determining that the subject matter of its programs was responsive to those issues. For example, determining that a discussion of the evils of child pornography (700 Club, 7/3/89, TBF Ex. 33, Tab H, p. 252) is responsive to the issue of "crime"

is clearly not unreasonable. Nor is a discussion on Feedback on July 16, 1990 (TBF Ex. 33, Tab HH, p. 5) of the definition of "obscenity" as it applies to the "2 Live Crew" performance -- particularly in view of the controversy that the performance aroused in the community. Likewise, the discussion on Feedback on July 3, 1989 (TBF Ex. 33, Tab H, pp. 230-231) exploring the connection between pornography and violent crime, particularly crimes against women, could reasonably be considered by a licensee to be responsive to the issue of "crime." Glendale may not share TBF's judgement, but that is not the issue. The issue is whether TBF was reasonable in considering these programs to be responsive to local needs, and clearly it was.

383. Even weaker is Glendale's argument with respect to the treatment of "education/schools." The gist of the argument is that Glendale does not like the programs that WHFT broadcast on the issue, which often stressed a return to traditional values in public schooling and which provided information on home schooling. Clearly, providing information on the debate about what is taught in public schools, which was always an issue of importance within the service area, was responsive to a community need. For example, the Feedback program of March 28, 1988, featured a panel discussion, including a representative of the ACLU, concerning the teaching of creationism in public schools -- an issue vigorously debated within the service area. (TBF Ex. 33, Tab H, p. 109.) A Joy program broadcast on June 8, 1989 (TBF Ex. 33, Tab H, p. 214) included an interview

with a person discussing the state of public education, arguing that children needed more education in moral values. Once again, the program provided a substantive comment concerning an issue of public importance -- the very essence of "issue-responsive" programming. The Dr. James D. Kennedy program of September 4, 1990 (TBF Ex. 32, Tab HH, p. 14) included a survey discussion of the history of education in the United States, discussing the educational ideas of Horace Mann and John Dewey, and arguing that education was more successful when it was the province of the church. Again, while this may not be a viewpoint with which Glendale agrees, it is certainly comment about an issue of public importance.

384. There is no merit whatever to Glendale's suggestion that WHFT programming which concerns home schooling should be disregarded as nonresponsive to the issue of "education/-schools." Once again, while the views expressed on these programs may not be those of Glendale, that is not the issue. The issue is whether the program is within the broad range of discretion afforded licensees in determining what programming to broadcast to address the ascertained need of information concerning "schools/education." TBF's programming is well within the permissible range of discretion. No fair-minded person can doubt that the programs broadcast on WHFT included substantive comment on issues of public importance.

385. The same observations apply to Glendale's comments on the responsiveness of programming addressed to the issue of "cost of living/inflation/poverty." It is entirely reasonable for a licensee to consider a 700 Club program which "focusses on helping people cope with the loss of jobs and the needs of their families" as being responsive to the issue of "cost of living/inflation/poverty." (TBF Ex. 33, Tab H, pp. 75-76.)

386. Finally, Glendale attempts to discredit much of WHFT's programming which is responsive to the problem of "drug and alcohol abuse" as simply "personal religious experiences." Once again, it is not unreasonable for a licensee to consider this programming responsive to the needs of drug addicts for a number of reasons. First, therapies designed to free individuals from chemical dependency often involve a fundamental conversion experience -- the central premise, for example, of Alcoholics Anonymous. Much of the programming broadcast by WHFT provides one example of an effective life-changing experience that has worked for many people. Second, a major cause of chemical dependence is a feeling of hopelessness. WHFT programming has addressed that problem by presenting concrete examples of persons who have overcome that problem. Third, WHFT programming, as acknowledged by Glendale, normally includes a description of the methods that the person used to escape chemical addiction, as well as a description and identification of a program where one might go for help.

387. Most important, however, is the record evidence that there is a direct tie between WHFT programming and people entering drug and alcohol rehabilitation programs. See, e.g., testimony of Rev. Tolbert (TBF PFCL ¶529); testimony of Cleveland Bell (Id. ¶531); testimony of Michael Lewandowski (Id. ¶540); and testimony of Richard Dodge (Id. ¶554). Dr. Jacobs, who is the head of the Miami Rescue Mission testified that WHFT programming is one of the few stations approved for watching in the Rescue Mission's homes for recovering alcoholics and drug addicts, and that WHFT programming helped recovering alcoholics and drug addicts with "mind renewal." (Id. ¶548.) The evidence shows not only that WHFT programming is "responsive" to the issue of drug and alcohol abuse, but there is a direct link between WHFT programming and individuals seeking help with the problem.

3. Public Witnesses

388. Glendale's treatment of the community witnesses suffers from many of the same deficiencies as the Bureau's findings, and those will not be repeated here. However, certain points must be made.

389. Despite the many witnesses who stressed that WHFT programming went out of its way to provide information on resources and programs available to assist community residents, none of this testimony is cited in Glendale's proposed findings. Likewise ignored is testimony from the public witnesses concern-

ing the reputation of WHFT in the community for serving community needs and providing community service, which was emphasized in the testimony of Rev. Tolbert (TBF PFCL ¶530) and Rev. Lopez (Id. ¶581). This oversight hardly seems accidental, in view of the importance of such testimony in establishing renewal expectancy. Fox Television Stations, Inc., supra, 8 FCC Rcd at 2387-88; Metroplex Communications, Inc. (WHYI-FM), supra, 4 FCC Rcd at 8152-53; Seattle Public Schools, supra, 4 FCC Rcd at 636; Intercontinental Radio, Inc., 98 FCC 2d 608, 622-25 (1984), modified, 100 FCC 2d 817 (1985).

390. Also lacking from Glendale's findings is reference to WHFT's record of service to minorities during the License Term. For example, Glendale ignores Pastor Rodriguez testimony that WHFT gave time, encouragement, and support to ministries that primarily served the minority community. (TBF PFCL ¶521; see also testimony of Rev. Roberto Rosario, Id. ¶584.) Other important facts omitted by Glendale are testimony that WHFT exerted a healing influence on a community divided along racial and ethnic lines (Id. ¶555); that WHFT emphasized the problems and issues important to the minority community (Id. ¶561); that WHFT was responsive to minority needs (Id. ¶514); that WHFT emphasized the variety of racial and ethnic groups in the community and made a point of showing the different groups working together collaboratively (Id. ¶555); that WHFT conveyed a sense of celebration of the racial and ethnic diversity of the community and the service area (Id. ¶562); and that WHFT

included a large number of minorities as hosts and guests on its programs, providing a positive image to minorities (Id. ¶580).

391. At best, Glendale gives perfunctory recognition to the extensive and detailed accounts of the 30 public witnesses who testified to WHFT's service to the Greater Miami community, especially the needy and minority members of that community. (Glendale PFCL I ¶¶523-52; cf. TBF PFCL ¶¶509-89.) Glendale seeks, however, to dilute the impact of that testimony, all of it unchallenged and uncontradicted, by drawing adverse inferences from testimony received from three SALAD witnesses -- Johnnie R. McMillian, Carlton Moore and Dr. Andrew Cherry. (Glendale PFCL I ¶¶553-59.)

392. Ms. McMillian said that WHFT did not respond to an invitation and announcements from the NAACP (Id. ¶¶555-58), and Glendale finds this "troubling" (Id. ¶690). It is, however, not in the least troubling when considered in the light of the many services that WHFT did provide to the African-American community. See, e.g., TBF PFCL ¶504. A broadcast licensee is not required to dance to the tune of any particular organization or individual. The licensee's obligation is to ascertain community needs and decide, in the exercise of its own discretion, which needs it will respond to and what form its response should take. The record contains extensive testimony from representatives of the African-American and Hispanic communities concerning WHFT's compliance with this obligation and its responsiveness to

minority needs and interests. See, for example, the testimony of James Edward Woods (Glendale PFCL I ¶514-15), Dr. Walter C. Anders (Id. ¶516), Gilbert S. Rodriguez (Id. ¶¶517-21), Lonnie Lee Tolbert (Id. ¶¶528-30), Cleveland Bell III (Id. ¶¶531-32), Ruther M. Carter (Id. ¶¶533-37), Isaiah S. Williams, Jr. (Id. ¶¶545-46), Mary Jean Washington (Id. ¶556-58), Jean Caceres-Gonzalez (Id. ¶¶563-66), David Vega (Id. 567-70), Luis Lopez (Id. ¶¶579-82), and Roberto Rosario (Id. ¶¶583-85).

393. Ms. McMillian readily conceded on cross-examination that the excerpts that SALAD had provided to her from WHFT's issues-programs lists, and which she had reviewed, contained numerous examples of discussion programs dealing with issues and topics of particular importance to African-Americans. For example, on July 15, 1988, a two-hour Miami Praise the Lord program presented Dr. Larry Capp, an African-American who is Executive Director of "Metro-Miami Plan." (SALAD Ex. 30, pp. 5-6.) Ms. McMillian knows Dr. Capp and agreed that the program addressed an important topic. (SALAD Ex. 6, pp. 5-6.) She also knows about Jester Hairston, who discussed racial discrimination against Blacks in a two-hour Praise the Lord program on June 2, 1988 (SALAD Ex. 30, p. 9), a program that she also agreed addressed a matter of importance to ethnic and minority groups. (SALAD Ex. 6, pp. 32-33.) She testified to the same effect about a two-hour program on June 17, 1988, featuring the pastor of one of the largest Black congregations in Fort Lauderdale discussing adoption in the Black community (SALAD Ex. 6, p. 32;

SALAD Ex. 30, pp. 7-8); a two-hour program on March 9, 1988, featuring Rosie and Margie Grier discussing the problems of inner-city Black youth (SALAD Ex. 65, p. 33; SALAD Ex. 30, p. 11); a two-hour discussion on August 17, 1987, with Dr. John Perkins, a Black educator, civil rights leader and author (SALAD Ex. 6, p. 34; SALAD Ex. 30, pp. 12-13); and a discussion on April 3, 1987, with the Supervisory Administrative Law Judge of the Equal Employment Opportunity Commission. (SALAD Ex. 6, p. 34; SALAD Ex. 30, p. 15.) It bears repeating that none of these programs was a matter that Ms. McMillian was confronted with for the first time on cross-examination. Rather, they were all included in excerpts from WHFT issues-programs lists prepared by SALAD, reviewed by Ms. McMillian prior to her direct testimony, and offered in evidence by SALAD through Ms. McMillian.

394. Mr. Moore, a City Commissioner for Fort Lauderdale, said that WHFT had never sent a representative to cover or attend an "event" of interest to him. (Glendale PFCL I ¶559.) Glendale says this is also "troubling" because Mr. Moore is a public official affiliated with many groups. (Id. ¶690.) Of course, a broadcast licensee has no obligation to cover an event in which a particular individual, even a public official, happens to have an interest, or even to broadcast local news, especially where other stations are doing so. Rather, a broadcast station has an obligation to respond to ascertained needs, and it may properly choose to do so through in-depth discussion programs rather than by covering "events." Mr. Moore

is, incidentally, well aware that WHFT's practice is not to cover news events as such but, rather, to present discussion programs. (SALAD Ex. 7, p. 20.) The record contains abundant testimony from other community leaders in Fort Lauderdale and Broward County, some of whom Mr. Moore knows and some of whom he does not, concerning the public service that WHFT provides through its discussion programs. An example is the testimony of Ruth M. Carter, an African-American woman who is an official with the Broward County Commission of Alcohol and Drug Abuse Division. (TBF PFCL ¶533; SALAD Ex. 7, p. 17.) Mr. Moore described her as a "very well respected lady in this community." (SALAD Ex. 7, p. 17.) Mrs. Carter gave detailed testimony about the extraordinary services that WHFT provided, especially through its programs dealing with addiction. (See, TBF PFCL ¶¶533-37.) None of these programs covered "an event" in the sense that Mr. Moore use that term. All of them, however, dealt with pressing community needs.

395. Other public witnesses from Fort Lauderdale or other Broward County communities also praised WHFT for its community service. One was Elizabeth Anne Wilson, who testified about WHFT's programs on family issues. (TBF PFCL ¶¶510-13.) Mr. Moore knows her, but he has never discussed WHFT with her. (SALAD Ex. 7, p. 19.) Ms. Wilson, a long time resident of Fort Lauderdale, described her appearances on Feedback and Miami Praise the Lord discussing family problems and testified that no

other television station in the area had shown as much interest in family issues as WHFT. (TBF PFCL ¶511.)

396. Mr. Moore does not know the other public witnesses from the Broward County-Fort Lauderdale area who gave testimony about WHFT's service to the community through its discussion programs (although he has heard about some of them). They include: Lonnie Lee Tolbert, an African-American pastor from Hallandale, who testified about his own appearances on WHFT and the station's reputation for helping people and service community needs (TBF PFCL ¶¶528-30; SALAD Ex. 7, p. 19); Michael Lewandowski, a pastor in Pompano Beach, whose testimony about WHFT included an expression of his appreciation for the opportunity the station gave him to discuss his ministry with those addicted to drugs and alcohol and to educate people about the problems and needs of Viet Nam vets (TBF PFCL ¶¶538-42; SALAD Ex. 7, p. 18); Sergeant Gary Morton of the Broward County Sheriff's Office, who testified about his appearances on WHFT programs discussing the Crimestoppers project and the importance to the community of WHFT programs on crime (TBF PFCL ¶¶543-44; SALAD Ex. 7, p. 18); Timothy L. Ball, a Fort Lauderdale resident and an officer of the Oakland Park Police Department, who described the public response to his appearances on Miami Praise The Lord (TBF PFCL ¶¶551-52; SALAD Ex. 7, p. 16); Susan Sissman, who is active in several Broward County charitable organizations and who noted that WHFT has been providing for years a vital service to the poor and homeless in the Hollywood area and is a

vital link in the safety net for the poor residents of Broward County (TBF PFCL ¶¶512-13; SALAD Ex. 7, p. 18); James Edward Woods, an African-American pastor in Miami, formerly of Fort Lauderdale, who testified to WHFT's responsiveness to minority needs (TBF PFCL ¶¶514-15; SALAD Ex. 7, p. 19); and Robert Barnes, Executive Director of Sheridan House in Fort Lauderdale, a multi-service social service agency, and a frequent participant in discussion programs Feedback and Miami Praise the Lord, who testified to the importance of WHFT programs, especially to senior citizens. (TBF PFCL ¶¶526-27; SALAD Ex. 7, p. 16.)

397. Also "troubling" to Glendale is the testimony of Dr. Andrew Cherry about this appearance on a WHFT program on homelessness in 1989. (Glendale PFCL I ¶¶690 and 553-54.) In fact, Dr. Cherry's testimony on cross-examination (SALAD Ex. 2), which Glendale does not cite, exposed the inaccuracy of his recollection of what occurred on that program (and also his own bias against those he called "evangelists").

398. Before Dr. Cherry prepared his written direct testimony (SALAD Ex. 31, p. 21), SALAD sent him a 34-page document it had compiled from WHFT issues/programs lists noting programs that responded to ascertained needs. Included was the following description of a half-hour Feedback program broadcast five times in October-November 1989 in which Dr. Cherry's name was prominently mentioned (SALAD Ex. 31, p. 321; emphasis added):

Feedback #151

Attorney Harold Ray moderates a panel discussion on the poverty of the homeless, some aspects of its causes, and a look at what's being done. Panelists: Dr. Lois DeLevoe, President of "On this Rock Shelter" in Ft. Lauderdale; Professor Andrew Cherry of Barry University, Biscayne Park; Greg Brown, a provider of food and other help to the homeless in Ft. Lauderdale. A roll-in footage shows some of South Florida's poverty stricken homeless. Many of them disqualify for welfare assistance or medical assistance since they have no permanent home address. Their sporadic employment prevents a steady income. The poverty stricken homeless are not just a bunch of derelicts as some may think. Often many are high school graduates, some college graduates, but for various reasons are out of work. Few have come out of jail. Panelists hope that local churches and various companies provide some facilities to alleviate the suffering.

399. Although Dr. Cherry claimed that he reviewed the document as a basis for his testimony, he never found his name. In his written testimony, which he signed on August 9, 1993, Dr. Cherry said, "I cannot even find my name in the program synopses." (SALAD Ex. 13, p. 2.) He repeated this on September 13, 1993, when he testified on deposition. He said then that he remembered receiving the document from SALAD "because I was looking for my name in here." (SALAD Ex. 2, p. 14.) Asked if he had been able to find it, he replied, "No, I wasn't. I couldn't believe it." (Id.) But his name was listed, plainly and accurately, and Dr. Cherry's inability to find it is a telling commentary on his reliability as a witness. Also relevant in assessing his testimony are his patronizing and disparaging references to Greg Brown, another panelist on the program, as a "street evangelist" (see SALAD Ex. 13, p. 2, where

the term is used four times), an "Evangelist preacher" (SALAD Ex. 2, p. 19), and a "minister Evangelist" (Id., p. 28). Greg Brown is, in fact, a self-employed painter and decorator who speaks several languages and operates the oldest on-site program for feeding the homeless in Broward County. (TBF PFCL ¶571.) He feeds over 200 homeless people each Sunday, the day when other food banks and resources are closed. (Id.)

400. Glendale cites Dr. Cherry's assertions in his written testimony that, "The point they [i.e., the station or the other participants in the program] were making was that homeless people did not need social service programming or medications" and that, "They implied that the problem was that homeless people were not christians [sic]" (Glendale PFCL I ¶554; SALAD Ex. 13, p. 2.) But Glendale fails to note that these outrageous assertions about the content of the program did not survive cross-examination.

401. At his deposition, Dr. Cherry was shown a videotape of the program, and he agreed that it refreshed his recollection about what occurred. (SALAD Ex. 2, p. 21.) The tape showed that both he and Dr. DeLevoe commented on a film clip of homeless people receiving such non-religious services as haircuts and medical attention. (Id., p. 23.) Dr. Cherry and Dr. DeLevoe both pointed out that the homeless have needs for social services other than religious ministrations. (SALAD Ex. 31, pp. 23, 23, 32, 35.) Incidentally, although Dr. Cherry was